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Report Highlights:

On May 5, 2010, China's State Council Legislative Affairs Office (SCLAO) published the "Administrative Measures for National Food Safety Standards" on its website. The draft measures stipulate how a state standard on food safety should be formulated, addressing questions such as who can draft a standard and who approves a new standard. Comments on this standard are due by May 25.

General Information:

Summary

On May 5, 2010, China's State Council Legislative Affairs Office (SCLAO) published the "Administrative Measures for National Food Safety Standards" on its website. The draft measures stipulate how a state standard on food safety should be formulated, addressing questions such as who can draft a standard and who approves a new standard. Comments on this standard are due by May 25.

A Chinese version of this law is also available at:
<http://www.chinalaw.gov.cn/article/cazjgg/201004/20100400253210.shtml>

This report contains an UNOFFICIAL translation of this measure.

BEGIN TRANSLATION

Administrative Measures for National Food Safety Standards (Draft)

Chapter I General Provisions

Article 1

Administrative Measures for National Food Safety Standards is hereby formulated, in accordance with *Food Safety Law of the People's Republic of China* and its implementing regulations, in order to strengthen the management of national food safety standards.

Article 2

Development of national food safety standards shall aim to protect public health, basing on the results of risk assessment for food security, to achieve a scientific outcome, reasonability, safety and reliability.

Article 3

Ministry of Health shall be responsible for establishing and promulgating national food safety standards, organizing and setting up a Review Committee for National Food Safety Standards (hereinafter referred to as "Review Committee"), and formulating a planning and implementation plan for state standards on food safety together with related departments.

A Review Committee shall be responsible for reviewing the draft of national food safety standards and providing advisory opinions for state standards for food safety. The Review Committee shall consist of Secretariat and various specialized sub-committees.

Every entity undertaking the task of drafting national food safety standards shall be responsible for organizing the research work, putting forward the draft of national food safety standards, and strengthening technology research on national food safety standards.

Article 4

Development of national food safety standard shall include project approval, planning, drafting, review, approval and so on.

Article 5

Development of national food safety standard shall carry forward democracy in an open and transparent manner. Citizens, legal persons and other organizations are encouraged to take part in national food safety standards work through a variety of ways.

Chapter II Project Approval

Article 6

According to the planning for national food safety standards and needs from food safety work, various related departments, research institutions, educational institutions, academic groups, industry associations and other entities can put forward project proposals.

Any citizen, legal person or other organization can make project proposals.

Article 7

Where a project proposal is made, the project proposal for national food safety standards shall be submitted to the Ministry of Health, with the contents such as background and reason for project approval, the existing food safety risk monitoring and evaluation basis, necessity and feasibility for development of national food safety standards, entities undertaking the task for drafting such standards, etc.

The contents of project proposal for national food safety standards shall comply with the provisions in Article 20 of *Food Safety Law of the People's Republic of China*.

Article 8

Before the Ministry of Health promulgates the planning for national food safety standards and development (amendment) of plans, public comments shall be solicited for the whole society.

Article 9

During the process of implementation, project plans for national food safety standards can be adjusted according to actual needs.

In view of food safety risk assessment results and major problems found in food safety supervision, developed (amended) items in national food safety standards can be urgently supplemented and added.

Chapter III Drafting

Article 10

Ministry of Health shall adopt tendering, entrustment and other means to select the excellent entities with the appropriate technical capabilities to undertake the task for drafting national food safety standards.

Article 11

Tertiary institutions, research institutes, academic bodies, industry associations and enterprises are encouraged to take part in drafting national food safety standards. And it is recommended that relevant entities set up drafting collaboration groups.

Article 12

Such an entity undertaking the task of drafting national food safety standards shall execute development (amendment) for national food safety standards with Ministry of Health.

Article 13

The drafting of national food safety standards shall be mainly based on food safety risk assessment results and food quality safety risk assessment of agricultural products, give full consideration to the level of socio-economic development in China, and make reference to relevant international standards and international food safety risk assessment results.

Article 14

In the process of drafting, such entity undertaking the task for drafting national food safety standards and persons in charge of drafting shall launch in-depth investigation and study, and listen to opinions from standard user entities, research institutions, industries, enterprises, consumers, experts, regulators and so on.

Article 15

A drafter entity shall fulfill the drafting task within the time limit stipulated in the entrustment agreement and submit the

draft of national food safety standards for examination and approval, preparation instructions, summary table of comments and other materials to Secretariat of Review Committee in a timely manner.

Chapter IV Examination

Article 16

In accordance with the following procedures, the Review Committee for National Food Safety Standards shall review a draft for examination:

- (1) preliminary review of the Secretariat;
- (2) asking for public comments and reporting to World Trade Organization (WTO);
- (3) examine by the meeting of professional sub-committee;
- (4) examine by meeting the Review Committee Directors.

In case of emergency, draft of national food safety standards for examination can be subject to preliminary examine by the Secretariat and ask for public comments, then it can be directly submitted for joint review and approval by the meeting of professional sub-committee and the meeting of Review Committee Directors.

Article 17

Secretariat of Review Committee shall conduct a preliminary review of submitted materials related to national food safety standards, including integrity and standardization of submitted materials and consistency with an entrustment agreement.

Article 18

The Secretariat of the Review Committee shall collect feedback comments to hand over to drafter entity for analysis and study, improve the draft of national food safety standards for examination and submit to Secretariat of Review Committee. The reasons for rejected comments shall be explained.

Article 19

Professional Sub-committee of Review Committee shall conduct meeting review. Within 30 days before the scheduled meeting date, Secretariat of Review Committee shall submit to all members the relevant materials related to national food safety standards for review.

Article 20

Where Professional Sub-committee of Review Committee reviews such standards, more than two-thirds (including two-thirds) of attending members shall be deemed a quorum. Review shall be conducted by consensus. In case of no consensus, vote shall be made on the basis of sufficient discussion. In the voting, the consent from three-quarters or more attending members can be deemed as approval.

As for such unapproved standards upon review, the Professional Sub-Committee of the Review Committee shall issue a written opinion to the drafter entity, indicating the reasons for rejection and put forward the opinions for amendment. After drafter entity makes amendment, it shall submit the amended draft for review again.

As for such standards that are reviewed and approved in principle but need to be amended, Professional Sub-committee of Review Committee can decide to appoint Secretariat to conduct the second review for amended draft under specific circumstances, or Professional Sub-committee of Review Committee can make correspondence review for amended draft.

Article 21

Professional standards reviewed and approved by Professional Sub-committee of Review Committee shall be promptly submitted to the meeting of Review Committee Directors for review and discussion, upon the review comments executed by chairman.

Article 22

The draft standards reviewed and approved by the meeting of Review Committee Directors shall be subject to the review comments executed by the Chief Technologist of the Review Committee.

As for such unapproved standards upon review, the Review Committee shall issue a written opinion to the drafter entity,

indicating the reasons for rejection and put forward the opinions for amendment. After the drafter entity makes an amendment, it shall submit the amended version for review again.

Chapter V Approval and Promulgation

Article 23

Ministry of Health shall approve and promulgate national food safety standards in a unified manner.

Article 24

National food safety standards shall be published on the official website of the Ministry of Health within 20 working days of the promulgation date.

Article 25

Ministry of Health shall be responsible for the interpretation of national food safety standards.

Article 26

Upon the promulgation of national food safety standards, where individual contents have to be adjusted, Ministry of Health shall publish an amendment document for the national food safety standard.

Article 27

Upon the promulgation of national food safety standards, the Ministry of Health shall organize the Review Committee, provincial health administrative authorities and relevant entities to conduct track evaluation for the implementation of such standards.

Article 28

Upon the implementation of national food safety standards, Review Committee shall make the second review in due course, and make proposal for continuous effectiveness, amendment or repeal. As for national food safety standards in need of amendment, they shall be promptly integrated into project plans for national food safety standards.

Chapter VII Supplementary Provisions

Article 29

The funds appropriated for development (amendment) of national food safety standards shall be included in financial budget arrangement and subject to the management in accordance with the financial system at the national level and special special fund management measures promulgated by the Ministry of Health.

Article 30

In food, national standards on residues of agricultural chemicals and veterinary drugs shall be implemented in line with the opinions by consultation between Ministry of Health and Ministry of Agriculture.

Numbering for national food safety standards shall be implemented in line with the opinions by consultation between Ministry of Health and Standardization Administration of the People's Republic of China.

Article 31

Local food safety standards can refer to these Measures for implementation.

Article 32

These Measures shall come into force since the promulgation date.

END TRANSLATION

